IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.458 OF 2005
IN
SUMMARY SUIT NO.1512 OF 2005

Mohankumar V.Jain ..Plaintiff

Vs.

Jasch Industries Ltd. ..Defendants

Mr.Tushar Goradia for the plaintiff

Mr.N.Engineer i/b RMG Law Associates for the defendants

CORAM : S.U.KAMDAR, J
DATED : 30TH JANUARY, 2006

P.C.:

1. The present suit is filed for the recovery of sum of Rs.3,62,882.45 and further interest on Rs.2,49,740/- @ 24% p.a. It is the case of the plaintiff that goods are sold and delivered under various invoices which are annexed to plaint. Defendants have not disputed receipt and / or delivery of the said goods.

2. The only contention advanced by the learned counsel for the defendants is that the goods delivered were defective and were of inferior quality. In respect of the aforesaid contention, defendant has filed affidavit in reply dt.19.12.05.

In the said affidavit in reply certain letters are annexed and contended that at the relevant time by the said correspondence they have informed that the goods are defective.

3. The learned counsel for the defendant states that he is not able to show that those letters were delivered to the plaintiff. In that light of the matter, it is not possible to accept the contention of the defendant that goods were defective and at material time any intimation was given in respect thereof.

4. However, with a view to give an opportunity to the defendants to defend the suit, I direct the defendants to deposit a sum of Rs. 3 lacs within 4 weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of

Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.